

#### **IV. REMARKS**

1. Claims 1, 8 and 13 are amended. Claims 5-7, 11, 12, 19 and 20 are withdrawn without prejudice. Claims 1-20 are pending in this Application.

2. The amendments to the second paragraph of claims 1 and 8 with respect to the force transmitting member are not narrowing amendments as this claim feature was already present in the claims and was merely moved from one paragraph to another.

3. Applicant elects claims 1-4, 8-10 and 13-18 ("Species I" as identified by the Examiner) for further prosecution on the merits in response to the restriction requirement.

4. The specification and drawings have been amended to overcome the objections to the drawings. Reference character "48" designating the pawl (page 9, L. 5) and the reference character "54" designating the pawl (page 8, line 37) have been amended. The reference number "43" has been removed from Figure 2A. Replacement drawing sheets are being submitted herewith.

5. Claims 1-4, 8-10 and 13-18 are patentable under 35 U.S.C. 102(b) over Green et al., U.S. Patent No. 5,476,479. Claim 1 recites a lever member coupled to the handle for grasping engagement by an operator, the lever member being moveable in opposite directions relative to the handle for effecting actuation of a force transmitting member for operating the medical device at a location distant from the handle. Green fails to disclose or suggest these features.

Green discloses a surgical instrument (100) that includes a handle assembly (102), a body assembly (110) and a ratchet

mechanism (118). The handle assembly has a pivoting handle (104), a stationary handle (106) and a barrel portion (108) to which the body assembly (110) is secured. Body assembly (110) has an outer tubular member (112) and a coaxial inner rod member (114) which slides therein. Outer tube member (112) is secured to barrel portion (108), while inner rod member (114) is secured to pivoting handle (104) and reciprocates within outer tube member (112) upon movement of pivoting handle (104). (Col. 11, L. 15-31).

The inner rod member (114) of Green includes a rack member (122) which has a plurality of circumferential notches or indentations which allows for use of the ratchet mechanism (118) regardless of the orientation of the tool mechanism due to rotation of body assembly (110) by rotation knob (116). Ratchet mechanism (118) has an articulated body which is formed by pawl member (124), trigger member (128) and a camming member (134) which extends from pawl member (124). Trigger member (128) pivots about a stationary pivot point (131) and is biased in the forward direction by spring (126). Trigger member (128) is joined to pawl member (124) through floating pivot point (130), while pawl member (124) is pivoted further about stationary pivot point (132). (Col. 11, L. 33-49).

Green also discloses an actuation means (120) having a body portion (186) and is provided with a camming slot (136) into which camming member (134) passes. Camming surface (138) engages camming member (134) to urge pawl member (124) into engagement with rack member (122). When actuation means (120) is pushed in a first direction, camming member (134) disengages from camming surface (138) and pawl member (124) disengages from rack member (122). When actuation means (120) is pushed in the opposite

direction, camming surface (138) contacts camming member (134) which urges pawl member (124) into engagement with rack member (122). Actuation means (120) functions as a switch to the user to override the ratchet mechanism so that the device (100) may be used in a conventional manner without requiring the user to hold any component of the instrument. (Col. 11, L. 49-65).

The Examiner argues that the actuation means (120) of Green is the same as the "lever member" called for in claim 1. The Applicant respectfully disagrees. Claim 1 recites the lever member being moveable in opposite directions relative to the handle for effecting actuation of a force transmitting member for operating the medical device at a location distant from the handle. The actuation means (120) of Green functions as a switch to the user to override the ratchet mechanism (Col. 11, L. 62-65). When actuation means (120) is pushed in a first direction, camming member (134) disengages from camming surface (138) and pawl member (124) disengages from rack member (122). When actuation means (120) is pushed in the opposite direction, camming surface (138) contacts camming member (134) which urges pawl member (124) into engagement with rack member (122). (Col. 11, 55-61). Green does not disclose the actuation means (120) actuating the inner rod member (114). Rather the pivoting handle (104) of Green moves the inner rod member (114) (Col. 11, L. 25-28). Thus, the actuation means (120) can not be a lever member being moveable in opposite directions relative to the handle for effecting actuation of a force transmitting member for operating the medical device at a location distant from the handle.

Further, the Examiner argues that the ratchet mechanism (118) operably connects the actuation means (120) to the inner rod member (114). As can be seen in Figures 15 and 19 of Green, the

actuation means (120) is clearly not connected to the inner rod member (114) for operating the tool mechanism provided at the distal end of the instrument (100). As described above, the actuation means (120) does not operate the tool mechanism, rather it is the pivoting handle (104) that operates the tool mechanism. Upon movement of the pivoting handle (104), inner rod member (114) reciprocates within the outer tube member (112) to operate the tool mechanism (Col. 11, L. 24-28; Col. 9, L. 24-27). The actuation means merely serves as an override of the ratchet mechanism (118) (Col. 11, L. 62-63). When the actuation means (120) is engaged, pawl member (124) is urged into engagement with the rack member (122) on the inner rod member (114). However, this engagement does not operate the tool mechanism but rather locks the reciprocating movement of the inner rod member (114) within the outer tube member (112). This is not what is claimed in Applicant's claim 1. Claim 1 recites a locking and release mechanism operably connecting the lever member to the force transmitting member.

The actuation means (120) cannot be connected to the inner rod member (114) for "operating the medical device" as called for in claim 1 as the inner rod member (114) slides through the hole (see Figs. 15 and 19) in the body portion (186) of the actuation means (120). As such, the actuation means does not apply any force to the inner rod member (114) directly or through the ratchet mechanism (118) that would cause the inner rod member (114) to reciprocate within the outer tube member (112) so that the tool mechanism of Green is operated. Rather, the inner rod member (114) is secured to the pivoting handle (Col. 11, L. 25-29). As can be seen in Fig. 15, there is a direct connection between the inner rod member (114) and the pivoting handle (104), which is not what is claimed in claim 1. Therefore, claim 1 is

patentable over Green as Green fails to disclose or suggest a locking and release mechanism operably connecting the lever member to the force transmitting member.

Claims 8 and 13 are patentable over Green for reasons similar to those described above with respect to claim 1.

Furthermore, claim 13 recites first and second lever members mounted on the handle for grasping engagement by other fingers of the one hand of the operator when the finger is in the finger loop. Claim 13 also recites the locking and release mechanism is actuated for causing and locking movement of the force transmitting member by movement of the at least one of the lever members in the first direction and the locking and release mechanism is actuated for causing and releasing movement of the force transmitting member by movement of the at least one of the lever members in the second direction. Claim 13 further recites in the course of operating the medical device, the operator can reposition his fingers of the one hand between the first and second lever members with rotation of the finger within the finger loop. Green does not disclose or suggest these features.

In Green, actuation means (120) is clearly operated with another hand that is different than the hand holding the pivoting handle (104) and the stationary handle (106). In green the user's thumb would be placed in the loop of the pivoting handle (104) while the index finger would be placed in the loop of the stationary handle (106), thus the actuation means (120) can only be operated by the user's other hand. Even if the ring or index finger of the user is placed in the loop of pivoting handle (104) the user's other hand would have to operate the actuation means (120) as access to the actuation means (120) by the user's index finger is obstructed by rotation knob (116) and trigger (128). Thus,

instrument of Green cannot be operated with one hand as called for in claim 13.

In addition, the trigger cannot be a "lever member" that actuates a "locking and release mechanism" for "causing and locking movement" or "causing and releasing movement" of the force transmitting member as called for in claim 13. As can be clearly seen in Figure 15 of Green, the biasing spring (126) holds the trigger (128) in a forward position and thus the pawl member (124) in engagement with the rack (122). The pawl (124) is connected to the trigger (128) through floating pivot pin (130). The trigger (128) actuates the pawl (124) when the trigger is pivoted about pin (131), which causes the pawl (124) to pivot around pin (132) and engage the rack (122). The trigger (128) and pawl (124) merely to lock a position of the inner rod member (114) and do not cause its movement within the outer tube (1122). Thus, trigger (128) does not actuate the pawl (124) for causing and locking movement of the force transmitting member by movement of the at least one of the lever members in the first direction. Nor does the trigger (128) actuate the pawl (124) for causing and releasing movement of the force transmitting member by movement of the at least one of the lever members in the second direction.

Furthermore, nowhere does Green disclose or suggest in the course of operating the medical device, the operator can reposition his fingers of the one hand between the first and second lever members with rotation of the finger within the finger loop. Therefore claim, 13 is patentable over Green.

Claims 2-4, 9, 10 and 14-18 depend from claims 1, 8 and 13. While these dependent claims each contain their own patentable subject matter, these claims should also be allowable at least because they depend from claims 1, 8 and 13 that should be

allowable. Accordingly, to expedite prosecution at this time, no further comment on these claims will be made.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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